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**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

**SAN FRANCISCO DIVISION**

MAXIMILIAN KLEIN, et al., on behalf of  
 themselves and all others similarly situated,

Plaintiffs,

v.

META PLATFORMS, INC., a Delaware  
 Corporation headquartered in California,

Defendant.

Case No. 3:20-cv-08570-JD

**JOINT STIPULATION REGARDING  
 CLASS CERTIFICATION  
 CONCURRENT EXPERT PROCEEDING**

Judge: Hon. James Donato

1 This Stipulation is entered into by and between User Plaintiffs, Advertiser Plaintiffs and  
 2 Defendant Meta Platforms, Inc. (collectively, “the Parties”) through their respective undersigned  
 3 counsel, as follows:

4 WHEREAS, the Court has scheduled a concurrent expert proceeding (or “hot tub”) on  
 5 class certification for December 5, 2023 (Dkt. 379);

6 WHEREAS, the Court has set a November 10, 2023 due date for the parties’ joint  
 7 submission in advance of the class certification concurrent expert proceeding;

8 WHEREAS, the Parties have reviewed the Court’s order regarding the procedure for  
 9 concurrent expert proceeding and joint submissions in prior cases, including the Court’s Order re  
 10 Concurrent Expert Witness Proceeding in *In re Capacitors Antitrust Litigation*, MDL Case  
 11 No. 17-mc-02801-JD (Aug. 5, 2019), Dkt. No. 828 (the “*Capacitors Order*”); *see also In Re*  
 12 *Google Play Store Antitrust Litigation*, Case No. 3:20-cv-05761-JD (Oct. 9, 2020), Dkt. No 53  
 13 (Oct. 8, 2020 Case Mgmt. Conf. Minutes) (“The Court anticipates that it will hold concurrent  
 14 expert proceedings, known informally as hot tubs, as it did in the *Capacitors* case, No. 14-3264.  
 15 The parties are encouraged to review the orders entered there for guidance.”);

16 WHEREAS, the Court has not promulgated an order in this case establishing any  
 17 different procedure for the concurrent expert proceeding and the preparation of the joint  
 18 submission in this case than the one set forth in the *Capacitors Order*;

19 WHEREAS, the Parties understand and now do stipulate and agree that the guidance for  
 20 concurrent expert witness proceedings and the accompanying joint stipulation set forth in the  
 21 *Capacitors Order* shall apply to the class certification concurrent expert proceeding and joint  
 22 submission in this case, subject to the modifications set forth below to account for the two  
 23 separate class certification motions by User Plaintiffs and Advertiser Plaintiffs and the number of  
 24 expert witnesses the Parties anticipate speaking at the concurrent expert proceeding;

25 ACCORDINGLY, the parties, by and through their respective counsel, hereby stipulate  
 26 and agree and respectfully request that, subject to the Court’s approval:

- 27 • The Parties’ expert witnesses shall meet and confer to prepare a joint statement  
 28 that lists the top 6-8 issues of disagreement for each of the separate User and

Advertiser class certification motions, by descending importance. Counsel will facilitate the logistics for the meet and confer, but the formulation of the joint statement is entirely up to the witnesses. Counsel may not participate in determining the contents of the joint statement. Due to the number of expert witnesses, their teaching and research schedules, and their geographic distance from one another, the expert witnesses' meet and confer may take place by videoconference.

- The Court will use the joint statement as an agenda for the discussion. The witnesses will be invited to comment on each other's remarks, and to pose questions. Counsel for the parties sponsoring the witnesses may be allowed to ask follow-up questions at the Court's discretion. At the end of the proceeding, the Court will ask each witness to summarize his or her position on selected issues, and to identify issues for which disagreement has been resolved. The witnesses will be put under oath and the discussion will be reported.
- The parties anticipate that the following expert witnesses may attend the concurrent expert proceeding:
  - for User Plaintiffs: Dr. Nicholas Economides, Dr. Joseph Farrell,<sup>1</sup> Mr. Robert Klein, and Prof. Sarah Lamdan;
  - for Advertiser Plaintiffs: Dr. Michael Williams, Dr. Joshua Gans, Mr. Kevin Kreitzman, and Mr. Scott Fasser;
  - for Meta: Dr. Catherine Tucker, Dr. Yael Hochberg, and Ms. Rebecca Kirk Fair.
- For medical reasons, User Plaintiffs respectfully request that two of their experts—Mr. Klein and Prof. Lamdan—be permitted to participate in the concurrent expert proceeding remotely via Zoom. Meta takes no position on this

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<sup>1</sup> The parties disagree over Dr. Farrell's attendance at the concurrent expert proceeding and will raise the issue with the Court in a subsequent submission.

request. Consumer Plaintiffs will provide further details regarding the medical issues in a brief filing under seal;

- The concurrent expert proceedings will last 2 hours per each of the two class certification motions, by Users and by Advertisers.

**IT IS SO STIPULATED.**

DATED: November 3, 2023

Respectfully submitted,

By: /s/ Shana E. Scarlett

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*Attorneys for Defendant Meta Platforms, Inc.*

**SIGNATURE ATTESTATION**

I am the ECF User whose identification and password are being used to file the foregoing.  
Pursuant to Civil Local Rule 5-1(h)(3), I hereby attest that the other signatories have concurred in  
this filing.

Dated: November 3, 2023

By: /s/ Sonal N. Mehta

Sonal N. Mehta

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Dated: \_\_\_\_\_

\_\_\_\_\_  
JAMES DONATO  
United States District Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on this 3rd day of November, 2023, I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF System.

By: /s/ Sonal N. Mehta  
Sonal N. Mehta